

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE: YASMIN AND YAZ) 3:09-md-02100-DRH-PMF
(DROSPIRENONE) MARKETING, SALES)
PRACTICES AND PRODUCTS LIABILITY) MDL No. 2100
LITIGATION)

This Document Relates to:

Sandra Baker v. No. 3:11-cv-11027-DRH-PMF
Bayer HealthCare Pharmaceuticals, Inc., et al.

Amanda Bennefield, et al. v. No. 3:11-cv-11317-DRH-PMF
*Bayer HealthCare Pharmaceuticals, Inc., et al.*¹

Judith Bottino v. No. 3:11-cv-11030-DRH-PMF
Bayer HealthCare Pharmaceuticals, Inc., et al.

Kimberly Byrd, et al. v. No. 3:11-cv-12890-DRH-PMF
*Bayer HealthCare Pharmaceuticals, Inc., et al.*²

¹ This order applies to plaintiffs (1) Vera Channell, (2) Priscilla Martinez, and (3) Amanda Rasmussen.

² This order applies to plaintiffs (1) Kassandra Alvarez, (2) Lacy Bailey, (3) Elizabeth Bailey-Smith, (4) Sherri Bazemore, (5) Donna Bearden, (6) Kelly Blankenship, (7) Barbara Broderson, (8) Rachel Burgess, (9) Kimberly Byrd, (10) Cori Castro, (11) Desiree Castro-Cheatham, (12) Erica Cox, (13) Laura Currier, (14) Terry Enriquez, (15) Bilma Fernandez, (16) Danielle Garner, (17) Jennifer Giglio, (18) Ashley Gross, (19) Jessica Gutierrez, (20) Melissa Hawes, (21) Jamie Jeromin, (22) Lateycia Johnson, (23) Crystal Johnston, (24) Tricia Kelley-Learman, (25) Sonja Keys, (26) Shannon Lealos, (27) Stephanie Lyghts, (28) Natasha Macklin, (29) Maria Manahan, (30) Renee Manning, (31) Keshia Matthews, (32) Emily Mayer, (33) Janet McCarthy, (34) Bonnie McGregor, (35) Kiri Miranda, (36) Christina Murray-Myers, (37) Kristen Ozinga, (38) Nancy Paul, (39) Jessica Raya, (40) June Robles, (41) Valerie Schatz, (42) Jennifer Schmekel, (43) Terri Sellers, (44) Lea Slawson, (45) Amalia Soliz, (46) Mary Stanley, (47) Betty Stevens, (48) Toni Thomas, (49) Shelli Vinson, (50) Melanie Wallace, (51) Malissa Ward, (52) Ashley Weber, and (53) Shelettae Whitaker.

<i>Jade Crocker v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11132-DRH-PMF
<i>Erica Fabian v. Bayer Corp., et al.</i>	No. 3:11-cv-10867-DRH-PMF
<i>Jessica Goodman v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11028-DRH-PMF
<i>Natasha Haley, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.³</i>	No. 3:11-cv-12892-DRH-PMF
<i>Taylor Ham v. Bayer Corp., et al.</i>	No. 3:11-cv-11177-DRH-PMF
<i>Joyce Hawkins v. Bayer Corp., et al.</i>	No. 3:10-cv-12924-DRH-PMF
<i>Natasha Hester v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11031-DRH-PMF
<i>Myranda Hinckley v. Bayer Corp., et al.</i>	No. 3:11-cv-12092-DRH-PMF
<i>Wendy Hudson v. Bayer Corp., et al.</i>	No. 3:11-cv-11689-DRH-PMF
<i>Emily Jones, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.⁴</i>	No. 3:11-cv-11320-DRH-PMF

³ This order applies to plaintiffs (1) Alaina Adams, (2) Aquarius Armstrong, (3) Ksee Ashcraft, (4) Racheal Bahe, (5) Judy Barker, (6) Misty Brehm, (7) Edwina Burrows, (8) Morgan Chiti, (9) Rebekah Crosser, (10) Sylvia Cruz, (11) Emily De La Cruz, (12) Mary Eshbaugh, (13) Starlet Etheridge, (14) Kathleen Fallon, (15) Andrea Ferris, (16) Sarah Fleck, (17) Lakesha Franklin, (18) Austin Frazier, (19) Patricia Garcia, (20) Kristina Glidewell, (21) Elizabeth Grainger, (22) Natasha Haley, (23) Sarah Hastings, (24) Jaime Herrington, (25) Kimberly Hicks, (26) Rebecca Hill, (27) Lisa Hunter, (28) Aretha Johnson, (29) Sylvia Kingery, (30) Janice Kitchen, (31) Justine Lackey, (32) Tracy Lambert, (33) Heather Lascelles, (34) Barbara Lizotte, (35) Rachel Locken, (36) Nicole Love, (37) Diana Medina, (38) Samantha Morgan, (39) Michelle Murray, (40) Kylie Pulliam, (41) Liz Ramirez-Valencia, (42) Yvonne Reyes, (43) Michelle Rhodes, (44) Talia Riffe, (45) Rhonda Salyers, (46) Kathy Smith, (47) Nicole Subler, (48) Kathy Thompson, (49) Allison Tinder, (50) Kayla Toth, (51) Megan Tripp, (52) Sarah Vine, and (53) Jessica Walden.

⁴ This order applies to plaintiffs Emily Jones and Jennifer Mighton.

<i>Shakina Jones v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11032-DRH-PMF
<i>Charlotte McIntosh v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11283-DRH-PMF
<i>Deborah and Joseph Motley v. Bayer Corp., et al.</i>	No. 3:11-cv-12115-DRH-PMF
<i>Melissa Napier v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11033-DRH-PMF
<i>Amanda Naquin v. Bayer Corp., et al.</i>	No. 3:11-cv-10981-DRH-PMF
<i>Tracey Owen v. Bayer Corp., et al.</i>	No. 3:10-cv-13652-DRH-PMF
<i>Christina Pietzak v. Bayer Corp., et al.</i>	No. 3:11-cv-10860-DRH-PMF
<i>Kristal Ramirez v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-12198-DRH-PMF
<i>Alicia and Nathaniel Raymond v. Bayer Pharmaceuticals Corp., et al.</i>	No. 3:11-cv-11101-DRH-PMF
<i>Brandi Sanders v. Bayer Corp., et al.</i>	No. 3:11-cv-11820-DRH-PMF
<i>Denise Sloan v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11029-DRH-PMF
<i>Emily Smith v. Bayer Corp., et al.</i>	No. 3:11-cv-12025-DRH-PMF
<i>Tracy and Jeffrey Spangler v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10691-DRH-PMF
<i>Santina Spears v. Bayer Corp., et al.</i>	No. 3:11-cv-10892-DRH-PMF
<i>Nashlee Taylor v. Bayer Corp., et al.</i>	No. 3:11-cv-11645-DRH-PMF
<i>Susan Tedaldi v. Bayer Corp., et al.</i>	No. 3:11-cv-10837-DRH-PMF
<i>Monica Thompson v. Bayer Corp., et al.</i>	No. 3:11-cv-12029-DRH-PMF
<i>Misty Tyson v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-12678-DRH-PMF

BAYER DEFENDANTS' MOTION TO DISMISS WITHOUT PREJUDICE

This matter is before the Court on the Bayer defendants motion, pursuant to Case Management Order 12 (“CMO 12”),⁵ for an Order dismissing Plaintiffs’ claims in the above-captioned matters without prejudice for failure to comply with their Plaintiff Fact Sheet (“PFS”) obligations.⁶

⁵ The Parties negotiated and agreed to CMO 12, which expressly provides that the discovery required of plaintiffs is not objectionable. CMO 12 § A(2).

⁶ The Bayer defendants’ motion also sought dismissal of the following member actions:

- *Malory and Travis Baker v. Bayer Corp., et al.* No. 3:11-cv-10875-DRH-PMF
- *Amanda Charlton v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv 11806-DRH-PMF
- *Kati Crouse v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-11493-DRH-PMF
- *Bethany Durnal v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-10180-DRH-PMF
- *Allison Haymaker v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-10651-DRH-PMF
- *Tia Lewis v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-12006-DRH-PMF
- *Dionne Morrise v. Bayer Corp., et al.* No. 3:11-cv-12118-DRH-PMF
- *Kathleen Scimeca v. Bayer Corp., et al.* No. 3:11-cv-10950-DRH-PMF
- *Amber Wilson v. Bayer Corp., et al.* No. 3:11-cv-10141-DRH-PMF

With the exception of member action *Kati Crouse v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-11493-DRH-PMF *Chance Stephens, et al. v. Bayer Corp., et al.* No. 3:11-cv-10960-DRH-PMF (as to plaintiff Alicia Chambers only), the Bayer defendants have filed notice of withdrawal of the motion to dismiss. Accordingly, no motion to dismiss is pending in these cases. The *Crouse* matter was dismissed without prejudice, pursuant to a stipulation, on February 24, 2012 (3:11-11493, Docs. 7, 8). The *Stephens* matter (as to Alicia Chambers) was dismissed without prejudice pursuant to a stipulation as well (3:11-cv-10960).

Under Section C of CMO 12, each Plaintiff is required to serve Defendants with a completed PFS, including a signed Declaration, executed record release Authorizations, and copies of all documents subject to the requests for production contained in the PFS which are in the possession of Plaintiff. Section B of CMO 12 further provides that a completed PFS is due “45 days from the date of service of the first answer to her Complaint or the docketing of her case in this MDL, or 45 days from the date of this Order, whichever is later.”

Plaintiffs in the above-captioned matters were to have served completed PFSs on or before December 18, 2011 (See 3:11-11027, Doc. 6-1).⁷ Per Section E of CMO 12, Notice of Overdue Discovery was sent on January 9, 2012. (See 3:11-11027, Doc. 6-2). Plaintiffs’ completed PFSs are thus more than two months overdue.

Under Section E of CMO 12, **plaintiffs were given 14 days from the date of Bayer’s motion**, in this case 14 days from February 9, 2012, to file a response either certifying that they served upon defendants and defendants received a completed PFS, and attaching appropriate documentation of receipt or an opposition to defendant’s motion.⁸

⁷ Identical motions were filed in each of the above captioned cases. For ease of reference the Court refers to the motion and exhibits filed in *Sandra Baker v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-11027-DRH-PMF.

⁸ Responses to Bayer’s motion to dismiss were due 14 days from February 9, 2012 regardless of any response date automatically generated by CM/ECF. The Court has previously noted in orders in this MDL and during a status conference in this MDL that when deadlines provided by CM/ECF conflict with orders of this Court, the Court ordered deadline will always control. See *United States*

To date, none of the plaintiffs in the above captioned member actions has filed a response. Because the plaintiffs have failed to respond to Bayer's allegations, the Court finds that these plaintiffs have failed to comply with their PFS obligations under CMO 12. **Accordingly, the Court hereby ORDERS as follows:**

With regard to member action ***Amanda Bennefield, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al. No. 3:11-cv-11317-DRH-PMF***, the following plaintiffs' claims are dismissed without prejudice for failure to comply with the requirements of CMO 12:

(1) Vera Channell, (2) Priscilla Martinez, and (3) Amanda Rasmussen.

With regard to member action ***Kimberly Byrd, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al. No. 3:11-cv-12890-DRH-PMF***, the following plaintiffs' claims are dismissed without prejudice for failure to comply with the requirements of CMO 12:

Kassandra Alvarez, (2) Lacy Bailey, (3) Elizabeth Bailey-Smith, (4) Sherri Bazemore, (5) Donna Bearden, (6) Kelly Blankenship, (7) Barbara Broderson, (8) Rachel Burgess, (9) Kimberly Byrd, (10) Cori Castro, (11) Desiree Castro-Cheatham, (12) Erica Cox, (13) Laura

District Court for the Southern District of Illinois, Electronic Filing Rules, Rule 3 (The "filer is responsible for calculating the response time under the federal and/or local rules. The date generated by CM/ECF is a guideline only, and, if the Court has ordered the response to be filed on a date certain, the Court's order governs the response deadline."). The deadlines provided by CM/ECF are generated automatically based on the generic responsive pleading times allowed under the rules and do not consider special circumstances (such as court orders specific to a particular case or issue).

Currier, (14) Terry Enriquez, (15) Bilma Fernandez, (16) Danielle Garner, (17) Jennifer Giglio, (18) Ashley Gross, (19) Jessica Gutierrez, (20) Melissa Hawes, (21) Jamie Jeromin, (22) Lateycia Johnson, (23) Crystal Johnston, (24) Tricia Kelley-Learman, (25) Sonja Keys, (26) Shannon Lealos, (27) Stephanie Lyghts, (28) Natasha Macklin, (29) Maria Manahan, (30) Renee Manning, (31) Keshia Matthews, (32) Emily Mayer, (33) Janet McCarthy, (34) Bonnie McGregor, (35) Kiri Miranda, (36) Christina Murray-Myers, (37) Kristen Ozinga, (38) Nancy Paul, (39) Jessica Raya, (40) June Robles, (41) Valerie Schatz, (42) Jennifer Schmekel, (43) Terri Sellers, (44) Lea Slawson, (45) Amalia Soliz, (46) Mary Stanley, (47) Betty Stevens, (48) Toni Thomas, (49) Shelli Vinson, (50) Melanie Wallace, (51) Malissa Ward, (52) Ashley Weber, and (53) Shelettae Whitaker.

With regard to member action ***Natasha Haley, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al. No. 3:11-cv-12892-DRH-PMF***, the following plaintiffs' claims are dismissed without prejudice for failure to comply with the requirements of CMO 12:

Alaina Adams, (2) Aquarius Armstrong, (3) Ksee Ashcraft, (4) Racheal Bahe, (5) Judy Barker, (6) Misty Brehm, (7) Edwina Burrows, (8) Morgan Chiti, (9) Rebekah Crosser, (10) Sylvia Cruz, (11) Emily De La Cruz, (12) Mary Eshbaugh, (13) Starlet Etheridge, (14) Kathleen Fallon, (15) Andrea Ferris, (16) Sarah Fleck, (17) Lakesha Franklin, (18) Austin Frazier, (19) Patricia Garcia, (20) Kristina Glidewell, (21) Elizabeth Grainger, (22) Natasha Haley, (23) Sarah Hastings, (24) Jaime Herrington, (25) Kimberly Hicks, (26) Rebecca Hill, (27) Lisa Hunter, (28) Aretha Johnson, (29) Sylvia Kingery, (30) Janice Kitchen, (31) Justine Lackey, (32) Tracy Lambert, (33) Heather Lascelles, (34) Barbara Lizotte, (35) Rachel Locken, (36) Nicole Love, (37) Diana Medina, (38) Samantha Morgan, (39) Michelle Murray, (40) Kylie Pulliam, (41) Liz Ramirez-Valencia, (42) Yvonne Reyes, (43) Michelle Rhodes, (44) Talia Riffe, (45) Rhonda Salyers, (46) Kathy Smith, (47) Nicole Subler, (48) Kathy Thompson, (49) Allison Tinder, (50) Kayla Toth, (51) Megan Tripp, (52) Sarah Vine, and (53) Jessica Walden.

With regard to member action ***Emily Jones, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al. No. 3:11-cv-11320-DRH-PMF***, the claims of plaintiffs **Emily Jones** and **Jennifer Mighton** are dismissed without prejudice for failure to comply with the requirements of CMO 12.

With regard to member action ***Chance Stephens, et al. v. Bayer Corp., et al. No. 3:11-cv-10960-DRH-PMF***, the claims of plaintiff **Alicia Chambers** are dismissed without prejudice for failure to comply with the requirements of CMO 12.

The following member actions are dismissed without prejudice for failure to comply with the requirements of CMO 12:

<i>Sandra Baker v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11027-DRH-PMF
<i>Judith Bottino v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11030-DRH-PMF
<i>Jade Crocker v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11132-DRH-PMF
<i>Erica Fabian v. Bayer Corp., et al.</i>	No. 3:11-cv-10867-DRH-PMF
<i>Jessica Goodman v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11028-DRH-PMF
<i>Taylor Ham v. Bayer Corp., et al.</i>	No. 3:11-cv-11177-DRH-PMF
<i>Joyce Hawkins v. Bayer Corp., et al.</i>	No. 3:10-cv-12924-DRH-PMF
<i>Natasha Hester v.</i>	No. 3:11-cv-11031-DRH-PMF

Bayer HealthCare Pharmaceuticals, Inc., et al.

<i>Myranda Hinckley v. Bayer Corp., et al.</i>	No. 3:11-cv-12092-DRH-PMF
<i>Wendy Hudson v. Bayer Corp., et al.</i>	No. 3:11-cv-11689-DRH-PMF
<i>Shakina Jones v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11032-DRH-PMF
<i>Charlotte McIntosh v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11283-DRH-PMF
<i>Deborah and Joseph Motley v. Bayer Corp., et al.</i>	No. 3:11-cv-12115-DRH-PMF
<i>Melissa Napier v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11033-DRH-PMF
<i>Amanda Naquin v. Bayer Corp., et al.</i>	No. 3:11-cv-10981-DRH-PMF
<i>Tracey Owen v. Bayer Corp., et al.</i>	No. 3:10-cv-13652-DRH-PMF
<i>Christina Pietzak v. Bayer Corp., et al.</i>	No. 3:11-cv-10860-DRH-PMF
<i>Kristal Ramirez v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-12198-DRH-PMF
<i>Alicia and Nathaniel Raymond v. Bayer Pharmaceuticals Corp., et al.</i>	No. 3:11-cv-11101-DRH-PMF
<i>Brandi Sanders v. Bayer Corp., et al.</i>	No. 3:11-cv-11820-DRH-PMF
<i>Denise Sloan v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11029-DRH-PMF
<i>Emily Smith v. Bayer Corp., et al.</i>	No. 3:11-cv-12025-DRH-PMF
<i>Tracy and Jeffrey Spangler v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10691-DRH-PMF
<i>Santina Spears v. Bayer Corp., et al.</i>	No. 3:11-cv-10892-DRH-PMF
<i>Nashlee Taylor v. Bayer Corp., et al.</i>	No. 3:11-cv-11645-DRH-PMF
<i>Susan Tedaldi v. Bayer Corp., et al.</i>	No. 3:11-cv-10837-DRH-PMF

Monica Thompson v. Bayer Corp., et al. No. 3:11-cv-12029-DRH-PMF

Misty Tyson v. No. 3:10-cv-12678-DRH-PMF

Bayer HealthCare Pharmaceuticals, Inc., et al.

Debra West v. No. 3:11-cv-11735-DRH-PMF

Bayer HealthCare Pharmaceuticals, Inc., et al.

Further, the Court reminds plaintiffs that, pursuant to CMO 12 Section E, unless plaintiffs serve defendants with a COMPLETED PFS or move to vacate the dismissal without prejudice within 60 days after entry of this Order, the Order will be converted to a Dismissal With Prejudice upon defendants' motion.

SO ORDERED

 David R. Herndon
2012.03.01
13:45:18 -06'00'

Chief Judge
United States District Court

Date: March 1, 2012